



390 North Broadway – Ste. 140 | Jericho, New York 11753
MAIN TELEPHONE: (516) 455-1500 | FACSIMILE: (631) 498-0478

DALLAS | NEW YORK | NAPLES

October 12, 2022

Via ECF

The Honorable Lorna G. Schofield
United States District Court
Thurgood Marshall
United States Courthouse
40 Foley Square
New York, NY 10007

*Re: DarkPulse, Inc. v. EMA Financial, LLC, et al,
Case No.: 1:22-cv-00045; Notice of Supplemental Authorities*

Dear Judge Schofield:

We represent Plaintiff Darkpulse, Inc. in the above-captioned matter. We write to provide the Court with supplemental authorities relevant to DarkPulse's claims for relief asserted under the Racketeer Influenced and Corrupt Organizations Act ("RICO") (18 U.S.C. § 1961, *et seq.*), which is premised on New York's criminal usury statute, in this matter.

On June 6, 2022, the U.S. District Court for the Southern District of New York granted a borrower's motion for summary judgment on its RICO unlawful debt collection claim—premised on New York usury laws—in *Fleetwood Servs., LLC v. Ram Cap. Funding, LLC*, 2022 U.S. Dist. LEXIS 100837 (S.D.N.Y. June 6, 2022). A copy of the *Fleetwood* decision is filed herewith as **Exhibit A**.

On June 27, 2022, the U.S. District Court for the Southern District of New York denied the lender's motion to dismiss to the borrower's RICO claims for unlawful debt collection, also premised on New York's usury claims, in *Haymount Urgent Care P.C. v. GoFund Advance, LLC*, 2022 U.S. Dist. LEXIS 112768 (S.D.N.Y. June 27, 2022). A copy of the *Haymount* decision is filed herewith as **Exhibit B**.

On July 20, 2022, the U.S. District Court for the Southern District of New York denied the lender's motion to dismiss to the borrower's RICO claims for unlawful debt collection, also premised on New York's usury claims, in *Lateral Recovery LLC v. Queen Funding, LLC*, 2022 U.S. Dist. LEXIS 129032 (S.D.N.Y. July 20, 2022). A copy of the *Lateral Recovery* decision is filed herewith as **Exhibit C**.

On September 28, 2022, the U.S. District Court for the Eastern District of New York denied the lender's motion for summary judgment on its breach of contract claim when the borrower interposed the affirmative defense of criminal usury under New York law in *AKF, Inc. v. W. Foot*

DarkPulse, Inc. v. EMA Financial, LLC, et al.

Case No.: 1:22-cv-00045

Notice of Supplemental Authorities

Oct. 12, 2022

& Ankle Ctr., 2022 U.S. Dist. LEXIS 176467 (E.D.N.Y. Sept. 28, 2022). A copy of the *AKF* decision is filed herewith as **Exhibit D**.

On August 18, 2022, the New York County Supreme Court denied a convertible note lender's CPLR 3213 motion for summary judgment in lieu of a complaint, finding defendants "have raised factual disputes" concerning the convertible note, and that the conversion discount could cause the transaction to impose a criminally usurious rate of interest. *GS Capital Partners, LLC v. FTE Networks, Inc.*, 2022 N.Y. Misc. LEXIS 4698 (N.Y. Sup. Ct. Aug. 18, 2022). A copy of the *GS Capital* decision is filed herewith as **Exhibit E**.

On September 30, 2022, the U.S. District Court for the Southern District of New York denied the lender's motion to dismiss to the borrower's RICO claims for unlawful debt collection, also premised on New York's usury claims, in *New Y-Capp v. Arch Cap. Funding, LLC*, 2022 U.S. Dist. LEXIS 180309 (S.D.N.Y. Sept. 30, 2022). A copy of the *New Y-Capp* decision is filed herewith as **Exhibit F**.

All of the foregoing decisions rested their findings on the Court of Appeals' recent usury decision in *Adar Bays, LLC v. GeneSYS ID, Inc.*, 37 N.Y.3d 320 (N.Y. 2021).

We thank the Court for its attention to this matter.

Respectfully submitted,

THE BASILE LAW FIRM P.C.

By: /s/ Eric J. Benzenberg
Eric J. Benzenberg, Esq.
390 N. Broadway, Suite 140
Jericho, New York 11753
Tel.: (516) 455-1500
Fax.: (631) 498-0478
Email: eric@thebasilelawfirm.com

cc: Via ECF
All Counsel of Record